

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 373 of 2000.

Judgement reserved on: 30.10.2007.

Date of decision: 31.10.2007.

State of H.P.

..... Appellant.

Vs.

Trilok Singh

.... Respondent.

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Varinder Verma, Addl. Advocate General.

For the Respondent : Mr. Jagdish Vats, Advocate.

Kuldip Singh, Judge.

The State has filed this appeal against the judgement of acquittal recorded by the learned Chief Judicial Magistrate, Kinnaur on 29.5.1999, acquitting the respondent, under Sections 279, 337 and 338 IPC.

2. The prosecution case in brief is that on 13.11.1996 HC Bhagat Singh was informed about the accident of jeep bearing registration No. HP-02-5393 near Karchham bridge, therefore, he visited the spot and it was found that jeep bearing registration No. HP-02-5393 was coming from Tapri towards Karchham and when it reached near Karchham bridge, it rolled down from the road. Total

Whether the reporters of the local papers may be allowed to see the Judgment?

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three persons were sitting in the jeep, which was being driven by Trilok Singh. The injured were taken to District Hospital. On these facts, FIR No. 29/96 was registered on 13.11.1996 at Police Station, Sangla. After investigation of the case, challan was put up under Sections 279, 337 and 338 IPC, notice of accusation was put to respondent accordingly, to which he pleaded not guilty and claimed trial.

3. The prosecution examined nine witnesses. The statement of respondent was recorded, under Section 313 Cr.P.C., he denied the prosecution case, but did not lead any evidence in defence. The learned Chief Judicial Magistrate acquitted the respondent, as noticed above, hence State is in appeal.

4. I have heard the learned counsel for the parties and gone through the record. PW 1 Chain Singh and PW 2 Suresh Kumar are witnesses of taking into possession of vehicle and its documents. PW 3 Om Parkash is a witness of rukka and endorsement Ex. PW 3/A, on the basis of which he recorded the FIR Ex. PW 3/B. PW 4 Mohinder Singh is a witness, who was travelling in the jeep at the time of accident. He has stated that after washing the jeep they were proceeding towards Karchham and respondent-accused was driving the jeep, which rolled down and they suffered injuries. He could not tell how the vehicle rolled down. He was declared hostile and was cross examined by the prosecution. In cross examination by the defence, he has stated that vehicle had hardly covered 30 paces when it all of a sudden rolled down. He has admitted that the vehicle was not in high speed. PW 5 Duni Chand

has stated that respondent was driving the jeep. The jeep rolled down on right side just ahead of the bridge and he sustained injuries. There were three persons in the jeep. The jeep was in normal speed. He told the respondent that jeep was going on wrong direction.

5. PW 6 Bansi Lal, Mechanic has stated that he inspected the jeep bearing No. HP-02-5393 and prepared his report Ex. PW 6/A. In cross-examination, he has stated that in his opinion the jeep rolled down due to locking of the steering. PW 7 is photographer. PW 8 Dr. Anupam Singh Thakur has issued MLC Ex. PW 8/A of the respondent and Ex. PW 8/B another MLC of Mohinder Singh. PW 9 HC Bhagat Singh is the Investigating Officer.

6. PW 4 Mohinder Singh could not tell how the jeep rolled down meaning thereby he is not aware about the negligence, if any, of the respondent for causing the accident. He has stated that jeep had hardly covered 30 paces when it fell down. He admitted that jeep was not in high speed. PW 5 Duni Chand has also stated that the jeep was in normal speed and he told the respondent that jeep was not going in right direction. PW 6 has specifically stated that in his opinion the accident took place due to locking of the steering. The respondent has denied negligence on his part for causing the accident.

7. The cumulative effect of the statements of PW 4, PW 5 and PW 6 is that the prosecution has miserably failed to prove the rash or negligent driving on the part of the respondent for causing accident. The learned Chief Judicial Magistrate after appreciation of evidence has recorded a finding that the prosecution has failed to

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prove the case against the respondent-accused. No case is made out for interference. Hence, the appeal is dismissed.

October 31,2007.
(Hem)

(Kuldip Singh)
Judge.